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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-fifth session

SUMMARY RECORD OF THE 597th MEETING

Held at the Vienna International Centre, Vienna,
on Thursday, 28 March 1996, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

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The meeting was called to order at 10.50 a.m.

RESULTS OF INFORMAL CONSULTATIONS ON NEW ITEMS FOR THE AGENDA

1. **The CHAIRMAN** said that, in accordance with the recommendation of the Subcommittee contained in paragraph 54 of the report on its thirty-fourth session (A/AC.105/607 and Corr.1), he had conducted open-ended informal consultations with all members of the Subcommittee with a view to identifying, on the basis of consensus, a subject or list of subjects that might be considered, in the future, for inclusion in its agenda. During the consultations the following items proposed by some delegations in 1995 for possible inclusion in the agenda of the Subcommittee at its future sessions had been discussed: the status of the five outer space treaties; commercial aspects of space activities, for example, property rights, insurance and liability; a review of existing norms of international law applicable to space debris; legal aspects of space debris; and a comparative review of the principles of international space law and international environmental law.

2. The following ideas concerning the agenda of the Subcommittee, contained in the annex to the 1994 report of the Committee on the Peaceful Uses of Outer Space (A/49/20), had also been discussed: the possibility of establishing, through consensus, a working agenda comprising items upon which substantive progress was possible, and the possibility of separating the issue on definition and delimitation of outer space from the issue of the character and utilization of the geostationary orbit.

3. As a result of the discussion, he had felt that consensus was not possible concerning those two ideas and that further discussion of them was unnecessary. With regard to some of the proposals, the delegations of Mexico, the Czech Republic and Chile had submitted informal background notes explaining their proposals, as recommended at the 1995 session of the Subcommittee (A/AC.105/607 and Corr.1, para. 55). With regard to the proposal to include in the agenda of the Subcommittee an item entitled "Legal aspects of space debris", it had been felt that the inclusion in the agenda of an item envisaging elaboration of legislative norms or principles concerning space debris could take place only after sufficient progress had been made in the consideration of that subject in the Scientific and Technical Subcommittee. Although the proposal for a review of existing norms of international law applicable to space debris had been discussed extensively, no conclusion had been reached on the matter.

4. **Mr. SINGH** (India) welcomed the proposal, made by the Czech Republic, for an item to be placed on the agenda entitled "Review of existing norms of international law applicable to space debris". He called on delegations to support, or at least not to oppose, that proposal, as well as the proposals regarding the inclusion in the agenda of items entitled "Review of the five international legal instruments on outer space" and "Comparison of the norms of space law and those of international environmental law", suggested by Mexico and Chile respectively.

5. **Mrs. BATACLAN** (Philippines) associated herself with the statement made by the representative of India.

6. **Mr. McINTOSH** (Australia) said that the proposal made by the delegation of the Czech Republic would be open for discussion at the session of the Committee on the Peaceful Uses of Outer Space to be held in June 1996. He believed it possible that a consensus might be reached at that session regarding the inclusion of the item on the agenda of the Subcommittee.

7. **Mr. GONZALEZ** (Chile) expressed his satisfaction with the results of the informal consultations. He requested that the informal notes on their proposals submitted by his own delegation and those of the Czech Republic and Mexico should be reproduced in an annex to the report of the Subcommittee.

8. **The CHAIRMAN** said that the notes had been circulated in the framework of informal consultations. The notes themselves were therefore informal and could be annexed to the Subcommittee's report only if the delegations circulating them made a formal request to that effect.

9. **Mr. GONZALEZ** (Chile) requested that the unofficial background note submitted by his delegation regarding an item entitled "Comparison of the norms of space law and those of international environmental law" be reproduced in an annex to the report of the Subcommittee. It would then constitute a framework of reference for future discussion of the matter.

10. **Mr. FIUZA NETO** (Brazil) associated himself with the views expressed by the representative of India. He commended in particular the Czech proposal and said that informal consultations on new items for the agenda should take place at future sessions of the Subcommittee as well.

11. **Mr. ARRIAGA WEISS** (Mexico) requested that the informal note submitted by his delegation regarding a review of the status of the five international legal instruments relating to activities in outer space should likewise be reproduced in an annex to the Subcommittee's report.

12. **Mr. MELGAR** (Uruguay) said that the proposals made by the delegations of Chile, the Czech Republic and Mexico would benefit the work of the Subcommittee. He endorsed the views expressed by the representatives of India and Brazil.

13. **Mr. KOPAL** (Czech Republic) asked that the unofficial background note circulated by his delegation with regard to a review of existing norms of international law applicable to space debris should also be reproduced in an annex to the Subcommittee's report. He stressed that such notes were informal and should be considered as such when it came to their possible further development.

14. **The CHAIRMAN** said that, unless he heard any objection, he would take it that the Subcommittee accepted the requests made by the delegations of Chile, Mexico and the Czech Republic.

15. *It was so agreed.*

ADOPTION OF THE REPORT OF THE SUBCOMMITTEE (A/AC.105/C.2/L.201 and Add.1 and 2; A/AC.105/C.2/1996/CRP.8)

16. **The CHAIRMAN** said that the blanks in the draft report relating to factual details would be completed by the Secretariat.

A/AC.105/C.2/L.201

Paragraphs 1 to 3

17. *Paragraphs 1 to 3 were adopted.*

Paragraph 4

18. **The CHAIRMAN** said that the name of Venezuela should be included before that of Viet Nam.

19. *Paragraph 4, as amended, was adopted.*

Paragraphs 5 to 8

20. *Paragraphs 5 to 8 were adopted.*

Paragraph 9

21. **Mr. KIM** (United States of America) suggested that a comma be inserted between the names of the United Kingdom and the United States.

22. *Paragraph 9, as amended, was adopted.*

Paragraphs 10 and 11

23. *Paragraphs 10 and 11 were adopted.*

Paragraph 12

24. **The CHAIRMAN** suggested that, in order to take account of the Subcommittee's current practice, paragraph 12 (g) should be amended to read: "The Subcommittee and/or working group meetings could be cancelled on an ad hoc basis if informal consultations were required, instead of planned cancellations of blocks of meetings, which had been employed in the past;".

25. *It was so decided.*

26. *Paragraph 12, as amended, was adopted.*

Paragraphs 13 to 15

27. *Paragraphs 13 to 15 were adopted.*

Paragraph 16

28. **Mr. KIM** (United States of America) proposed the inclusion of the word "appropriately" after the word "issue" in the last sentence.

29. *The proposal was approved.*

30. *Paragraph 16, as amended, was adopted.*

Paragraphs 17 to 30

31. *Paragraphs 17 to 30 were adopted.*

Paragraph 31

32. **Mr. ZVEDRE** (Russian Federation) proposed that paragraph 31, which was unnecessary, should be deleted.

33. *It was so decided.*

Paragraphs 32 to 36

34. *Paragraphs 32 to 36 were adopted.*

A/AC.105/C.2/L.201/Add.1

Paragraphs 1 to 5

35. *Paragraphs 1 to 5 were adopted.*

A/AC.105/C.2/1996/CRP.8

Paragraph 5 bis

36. *Paragraph 5 bis was adopted.*

A/AC.105/C.2/L.201/Add.1 *(continued)*

Paragraphs 6 to 8

37. *Paragraphs 6 to 8 were adopted.*

38. **Ms. KATO** (Japan) proposed the addition of the following new paragraph 8 *bis*:

> "The view was expressed that once the above-mentioned recommendation was approved by the Committee on the Peaceful Uses of Outer Space and the General Assembly, it should be reflected appropriately in the relevant section of the United Nations budget."

39. In response to a question from **Mr. FIUZA NETO** (Brazil), **Mr. JASENTULIYANA** (Secretary of the Subcommittee) said that the United Nations budget for the current biennium contained a single appropriation for the servicing of meetings of all United Nations bodies, wherever they were held. Accordingly, any saving made in servicing the meetings of the Subcommittee, as calculated at the end of the biennium, would be regarded as available for other purposes and not necessarily for the meetings of the Subcommittee itself.

40. *The Japanese proposal was approved.*

41. *Paragraph 8 bis was adopted.*

Paragraphs 9 to 14

42. *Paragraphs 9 to 14 were adopted.*

A/AC.105/C.2/L.201/Add.2

Paragraph 1

43. *Paragraph 1 was adopted.*

Paragraph 2

44. **Mr. GONZALEZ** (Chile) proposed the inclusion, in regard to subparagraph 2 (e), of the view expressed by his delegation in the discussion of the item that the Secretariat should carry out a comparative study of both the branches of law mentioned in that subparagraph. That view had been supported and it had not been opposed.

45. **The CHAIRMAN** said that the point might be covered better by adding a new paragraph at the end of the section.

46. **Mr. GONZALEZ** (Chile) accepted that suggestion.

47. *Paragraph 2 was adopted.*

Paragraph 3

48. **Mr. CURIA** (Argentina) requested the Secretariat to find a more accurate translation into Spanish of the term "working agenda", in subparagraph (a), than the words "*programa de trabajo práctico*".

49. *Paragraph 3 was adopted on that understanding.*

Paragraph 3 bis

50. **The CHAIRMAN** said that the following paragraph, omitted unintentionally from the text of document A/AC.105/C.2/L.201/Add.2, should be inserted in it as paragraph 3 *bis*:

> "With regard to the proposal in paragraph 2 (d) above, it was agreed that the inclusion in the Subcommittee's agenda of an item envisaging elaboration of any legislative norms or principles concerning space debris would take place only after sufficient progress was attained in the consideration of this subject in the Scientific and Technical Subcommittee."

51. **Mr. KOPAL** (Czech Republic) suggested that a decision on paragraph 3 *bis* be deferred to a later stage, following the consideration of paragraphs 4 to 6, since he wished to propose a related additional paragraph.

52. *It was so agreed.*

Paragraph 4

53. **The CHAIRMAN** said that the word "thirty-ninth" should be corrected to read "thirty-fourth". In addition, following the agreement earlier in the meeting to annex the informal background notes to which the paragraph referred, the words "(see annex ...)" should be added at the end of the paragraph.

54. *It was so decided.*

55. *Paragraph 4, as amended, was adopted.*

Paragraph 5

56. **Mr. CURIA** (Argentina) suggested that the paragraph should read: "The proposal (c) in paragraph 2 was extensively discussed."

57. **The CHAIRMAN** pointed out that the paragraph reflected correctly the content of the informal discussions which had taken place.

58. *Paragraph 5 was adopted.*

Paragraph 6

59. *Paragraph 6 was adopted.*

60. **Mr. KOPAL** (Czech Republic) said that, although the Subcommittee had reached no consensus on his delegation's proposal that it should review existing norms of international law applicable to space debris, he felt that the report should reflect the exchange of views that had taken place on the subject. He therefore proposed the insertion of the following paragraph as paragraph 7:

> "In connection with the Chairman's summation, some delegations expressed the view that the prevailing feeling at the consultations was that the Subcommittee could be able to recommend that the Committee on the Peaceful Uses of Outer Space, at its next session in 1996, should consider whether it would be appropriate for the Legal Subcommittee to commence, in 1997, a review of existing norms of international space law applicable to space debris. They emphasized that the consideration of the proposed item was not intended to lead to the drafting of new provisions but should serve to clarify the issues involved and help to improve the interpretation and application of the existing norms of international space law. In the view of those delegations, such a review could be successfully carried out without an input from the Scientific and Technical Subcommittee and, moreover, the results of such a review might assist the Scientific and Technical Subcommittee in its work on the subject of space debris."

If that paragraph was acceptable to the Subcommittee, he could agree to the inclusion of the proposed paragraph 3 *bis* as paragraph 8, on condition that the phrase "any legislative norms or principles" was amended to read "any legal norms or principles".

61. **Mr. FIUZA NETO** (Brazil) supported the inclusion of the paragraph 7 proposed by the delegation of the Czech Republic.

62. **Mr. KIM** (United States of America) said his delegation had serious objections to the proposal made by the delegation of the Czech Republic, which had been introduced at an inappropriate juncture. His delegation did not agree that there had been a "prevailing feeling" at the consultations in favour of the recommendation to the Committee on the Peaceful Uses of Outer Space to which the proposed paragraph referred. If a paragraph along those lines was inserted, the following additional paragraph should be inserted as well, in order to reflect the divergence of views on the matter discernible in both the formal and the informal meetings of the Subcommittee:

> "Other delegations did not endorse the proposal in paragraph 2 (d) nor did they support the view that there was any prevailing feeling of support for that proposal. Those delegations explained that it was not appropriate to discuss the issue of space debris in the Legal Subcommittee or to develop recommendations that could underpin new legal norms or principles for space debris in view of the many technical and scientific issues that remained to be discussed. An adequate discussion of the scientific and technical research in the field must take place and an adequate base of knowledge must be established before the Legal Subcommittee could consider whether any new legal norms should be developed."

63. **The CHAIRMAN** observed that the purpose of the informal consultations had been precisely to avoid the need to reflect divergent views in the report and to preserve a constructive atmosphere for future discussions. The decision that individual delegations' informal background notes should be annexed to the report had already defeated that purpose somewhat.

64. **Mr. KIM** (United States of America) agreed that it would be preferable for the views of particular delegations to be omitted from the report altogether.

65. **Mrs. BATACLAN** (Philippines) said that she supported the proposal made by the delegation of the Czech Republic and had no objection to the views of other delegations being reflected in the report. She asked whether a consensus existed on the inclusion of the related paragraph 3 *bis*.

66. **The CHAIRMAN** asked the Czech representative whether he maintained his proposal.

67. **Mr. KOPAL** (Czech Republic) said that although his delegation was willing to compromise on the matter, it felt that its proposed new paragraph, in stating the position of its own and other delegations, reflected what had actually taken place at the present session.

68. **The CHAIRMAN** suggested that the proceedings should be suspended briefly for informal discussions among delegations with regard to the Czech and United States proposals and the action to be taken with regard to the related paragraph 3 *bis*.

69. *It was so decided.*

The meeting was suspended at 12.35 p.m. and resumed at 12.45 p.m.

70. **The CHAIRMAN**, reporting on the outcome of the informal discussions, said that the Czech and United States delegations had agreed to withdraw their proposals, and that it had been agreed that the proposed paragraph 3 *bis* should not be included in the report. He invited the Subcommittee to approve that course of action as a package of interrelated decisions.

71. *It was so decided.*

72. **Mr. GONZALEZ** (Chile) proposed the inclusion of a new paragraph following paragraph 6, to read:

> "Bearing in mind the request made by the delegation of Chile, when presenting its proposal for new agenda items, that the Secretariat should carry out a comparative study of the norms of space law and of environmental law, and the favourable view expressed by some delegations regarding that proposal, it was suggested that the Office for Outer Space Affairs consider the possibility of carrying out such a study."

He pointed out that no opposition to that idea had been expressed during the informal consultations.

73. **Mr. KIM** (United States of America) said that if a statement of that nature, reflecting the views of certain delegations, was included in the report, it would only be fair to reflect the views of delegations which took a different view.

74. **The CHAIRMAN** said that, since the idea of the proposed study had not previously been mooted in the Subcommittee officially, he questioned the appropriateness of presenting it as something on which the Subcommittee had expressed a view.

75. **Mr. de YTURRIAGA** (Spain) said he felt the Chilean text was premature. Unless a decision had been taken to include the item concerned in the Subcommittee's agenda, the Office for Outer Space Affairs could not be asked to study the subject.

76. **Mr. KIM** (United States of America) and **Mr. LOUET** (France) agreed.

77. **Mr. GONZALEZ** (Chile) said the proposed study would not pre-judge a decision as to whether the item itself was to be included in the agenda. His proposed text reflected the view of a number of delegations, although he was aware that others took a different view. In a spirit of flexibility, he would amend his proposed text to read: "Some delegations expressed the view that it would be appropriate for the Office for Outer Space Affairs to carry out a comparative study of the norms of international space law and international environmental law".

78. **Mr. KIM** (United States of America) called for the inclusion of a statement to the effect that there had been dissenting views. He suggested the addition of the following wording to the text just read out by Chile: "Other delegations rejected the proposal, explaining that it was premature and out of order for the Subcommittee to request the Office for Outer Space Affairs to carry out a comparative study even before the Subcommittee had fully considered and reached a decision on whether this proposal would be included as a new agenda item.".

79. **Mr. de YTURRIAGA** (Spain) said that it would be best not to include any statement along the lines proposed by the representative of Chile, but if that was done, the fact that some delegations believed the proposal for a study to be premature must be mentioned as well.

80. **The CHAIRMAN** said it would be regrettable if, with the inclusion of the Chilean text and the response to it by the United States, the report ended on a note of discord. Much of the discussion which had taken place in the informal consultations could not be reflected in the report and, moreover, the point now under consideration had occupied only a small proportion of the Subcommittee's time. In any case, even if the proposed statement appeared in the report it would have no practical effect, since the Secretariat could not proceed with the study in question without a clear mandate from the Subcommittee. He asked the representative of Chile to reconsider his proposal in that light.

81. **Mr. GONZALEZ** (Chile) said that his proposal had been intended to express confidence in the Secretariat, while promoting the progressive development of international space law. There were evidently two schools of thought in the Subcommittee on the question of new items for its agenda; some were in favour of progress, others were not. Nevertheless, in a spirit of cooperation, he withdrew his proposal.

82. **Mrs. BATACLAN** (Philippines) said that she herself had not heard any objection to the idea of the proposed study. She felt that, in future, informal consultations should be treated as the main forum for the expression of views on the matters dealt with by the Subcommittee.

83. **Mr. KIM** (United States of America) said he wished it to be clear that his delegation did not oppose progress in the Subcommittee's programme of work. Its concern was that resources should be used in an appropriate and efficient manner.

84. *The report of the Subcommittee as a whole, as amended, was adopted.*

CLOSURE OF THE SESSION

85. After an exchange of courtesies, the Chairman declared the session closed.

The meeting rose at 1.15 p.m.